

**KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES  
TOURISM, ARTS AND HERITAGE CABINET**

**Steven L. Beshear**  
Governor

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**Marcheta Sparrow**  
Secretary

**Dr. Jonathan W. Gassett**  
Commissioner

Jim Orther  
DEP Division of Water  
200 Fair Oaks Lane  
Fourth Floor  
Frankfort, KY 40601

*Issue*

19815A

Dear Mr. Jim Orther:

**Reference: USACE ID#: LRL-2009-xxx  
Nationwide Permit # 13 Sections 404/401 Permit Application,  
Brushy Creek Repair #2  
Greenup County, Kentucky**

Kentucky Department of Fish and Wildlife Resources has completed the application package for the Brushy Creek Repair #2. Attached is the 404 permit, preliminary jurisdictional determination form, and design plans.

The Kentucky Department of Fish & Wildlife Resources (KDFWR) is undertaking emergency measures to stabilize the Brushy Creek In-lieu Fee Mitigation Project. By copy of this letter KDFWR is requesting KY Division of Water review for 401 Water Quality Certification.

The project was initially undertaken as part of the in-lieu fee mitigation program permitted as Nationwide Permit ID No. 200400931 and Water Quality Certification No. 2004-0090-1. It was completed in January 2007. On January 25, 2008, KDFWR staff observed evidence of failing stream banks and structures. On June 12, 2008, KDFWR staff met on-site with the design firm responsible for the project and observed widespread failures which were threatening the county road adjacent to the project.

Emergency repair on the left descending bank was completed in the winter 2008. It was permitted as Nationwide Permit ID No. 2008-902 and Water Quality Certification No. 2008-0063-1. The proposed emergency repairs are needed to stabilize the stream banks which are currently causing excessive land loss to the adjacent property on the right descending bank.

The emergency repairs will include sloping the stream bank and installing geotextile protection under limestone boulders and channel lining. The project will involve 1230 linear feet of stream, 3417 cu.yd. of material ( 2.78 cu.yd per running foot) covering 2.12 acres.

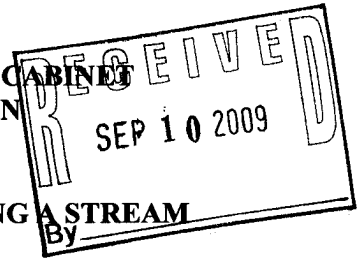
Thank you for your time and consideration. If you have any questions, you may contact me any time Monday through Friday from 8:00am to 4:30pm. Thank you for your time.

Sincerely,



Joseph Zimmerman  
KY Wetland and Stream Mitigation Program  
KY Department of Fish & Wildlife Resources  
#1 Sportsman's Lane  
Frankfort, KY 40601  
502-564-7109 ext.4453  
Joseph.Zimmerman@ky.gov

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER



**APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG  
AND / OR WATER QUALITY CERTIFICATION**

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. If the project involves work in a stream, such as bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water. This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.

If the project will disturb more than 1 acre of soil, you will also need to complete the attached Notice of Intent for Storm Water Discharges, and return both forms to the Floodplain management Section of the KDOW. This general permit will require you to create an implement an erosion control plan for the project.

1. **OWNER:** Kentucky Dept. of Fish and Wildlife Resources  
Give name of person(s), company, governmental unit, or other owner of proposed project.  
**MAILING ADDRESS:** #1 Sportsman's Lane, Frankfort, KY 40601  
  
**TELEPHONE #:** 502-564-7109 **EMAIL:** Joseph.Zimmerman@ky.gov
2. **AGENT:** \_\_\_\_\_  
Give name of person(s) submitting application, if other than owner.  
**ADDRESS:** \_\_\_\_\_  
  
**TELEPHONE #:** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_
3. **ENGINEER:** \_\_\_\_\_ **P.E. NUMBER:** \_\_\_\_\_  
Contact Division of Water if waiver can be granted.  
**TELEPHONE #:** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_
4. **DESCRIPTION OF CONSTRUCTION:** \_\_\_\_\_  
Describe the type and purpose of construction and describe stream impact  
Emergency repairs to an in-lieu fee mitigation project. Erosion from failing stream banks is  
causing land loss to the adjacent landowner. Rock toe and bank reshaping will be installed to repair  
and protect the eroding banks.
5. **COUNTY:** Greenup **NEAREST COMMUNITY:** Lynn, KY
6. **USGS QUAD NAME:** Load **LATITUDE/LONGITUDE:** 38.5938 x -82.9777
7. **STREAM NAME:** Brushy Creek **WATERSHED SIZE (in acres):** 5,824 AC
8. **LINEAR FEET OF STREAM IMPACTED:** 1230 LF
9. **DIRECTIONS TO SITE:** From I-64, take Industrial Pkwy exit, then take left on Hwy23 to KY 827, take left on Hwy 827 and travel to KY 7, take right to Brushy Road intersection. Site is 1/2 mile along Brushy Road from this intersection.
10. **IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE?** ☐ Yes ☒ No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. **DATE:** \_\_\_\_\_
11. **ESTIMATED BEGIN CONSTRUCTION DATE:** Sept 30, 2009 or ASAP
12. **ESTIMATED END CONSTRUCTION DATE:** Oct 20, 2009

13. HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS of ENGINEERS? ☐ Yes ☒ No If yes, attach a copy of that permit.

14. THE APPLICANT **MUST** ADDRESS PUBLIC NOTICE:

(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:

\_\_\_\_\_ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)

\_\_\_\_\_ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)

(b)  X  I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:

Project previously authorized under floodplains #14385 and WQC 2004-0090-1: Project is an emergency situation threatening further land loss from adjacent landowner.

Contact Division of Water for requirements.

15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:

None

Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. LIST OF ATTACHMENTS: Design plans, 7.5 minute USGS topographic map, aerial FSA map, soils map  
List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.

17. I, \_\_\_\_\_ (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).

18. REMARKS: \_\_\_\_\_

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: \_\_\_\_\_

Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: 9/3/09

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR: \_\_\_\_\_

Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.

DATE: \_\_\_\_\_

SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section  
Division of Water  
14 Reilly Road  
Frankfort, KY 40601









